

S.L.

AO 91 (Rev 01/09) Criminal Complaint

UNITED STATES DISTRICT COURT

for the  
Southern District of Ohio

2021 JUL 13 PM 1:12

U.S. DISTRICT COURT  
SOUTHERN DIST. OHIO  
EAST. DIV. COLUMBUS

United States of America  
v.

Case No. 2:21-mj-468

Nicholas S. MCKINNEY  
Defendant

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date of 07/16/2019 in the county of Franklin in the Southern District of Ohio, the defendant violated 18/21 U. S. C. § 922g/841a, an offense described as follows:

MCKINNEY possessed, in and affecting interstate and foreign commerce, a loaded firearm, to wit: a loaded Diamondback Firearms, Model DB9, 9 mm caliber pistol, bearing serial number: YE2489, having previously been convicted of a crime punishable by imprisonment for a term exceeding one year, to wit: Burglary (F-2) and Robbery (F-3), Case No. 13-CR-1522, in Franklin County (Ohio) Court of Common Pleas, and did so knowingly, in violation of Title 18 U.S.C. §§ 922(g)(1) and 924(a)(2) and knowingly and intentionally possessed with intent to distribute a mixture or substance containing a detectable amount of Heroin, a Schedule I controlled substance, and a mixture or substance containing a detectable amount of Cocaine Base, commonly known as "Crack", a Schedule II controlled substance in violation of Title 21 U.S.C. §§ 841(a)(1) and (b)(1)(C).

This criminal complaint is based on these facts:

(See attached)

☒ Continued on the attached sheet.

Jason Burns #9800  
Complainant's signature

Jason Burns, ATF Special Agent  
Printed name and title

Sworn to before me and signed in my presence.

Date: 07/13/2021

City and state: Columbus, Ohio

Elizabeth A. Preston Deavers  
Judge's signature  
Elizabeth A. Preston Deavers, U.S. Magistrate Judge  
Printed name and title  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
FOR THE

**PROBABLE CAUSE AFFIDAVIT**  
**Nicholas Scott MCKINNEY**

I, Jason Burns, being duly sworn, depose and state that:

I have been a Special Agent of the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives since September 2005. I am a graduate of the Federal Law Enforcement Training Center's Criminal Investigator School and a graduate of the ATF National Academy; and as a result of my training and experience as an ATF Special Agent, I am familiar with Federal criminal laws pertaining to Narcotics and Firearms violations.

1. On or about August 14, 2013, Nicholas S. MCKINNEY was sentenced for felony counts of Burglary, a felony of the Second Degree (F-2) and Robbery, a felony of the third degree (F-3) in Franklin County Court of Common Pleas, Case #: 13-CR-1522. Records from the case indicate that on or about July 16, 2013, MCKINNEY acknowledged that the offenses to which he entered his guilty pleas were punishable by a term of imprisonment exceeding one-year.
2. On or about July 16, 2019, ATF Task Force Officer (TFO) J. Orick and Columbus, Division of Police (CPD) Detective Harmon conducted surveillance at Westgate Park, 455 S. Westgate Ave., Columbus, Ohio 43204, regarding wanted fugitive Nicholas S. MCKINNEY. MCKINNEY was wanted for an Adult Parole Authority (APA) parole violation. TFO Orick had previously identified MCKINNEY's primary vehicle as a 2004 GMC Envoy bearing Ohio Tag: GYL-4175. A query in OHLEG revealed the registered owner as Sheryl Gillespie, who has been identified as MCKINNEY's aunt.
3. Shortly after initiating surveillance at approximately 6:00 PM, TFO Orick observed MCKINNEY driving the aforementioned vehicle. TFO Orick observed MCKINNEY's girlfriend, Paige GREEN, in the passenger side front seat. TFO Orick and Det. Harmon were parked approximately 30 feet from the parking spot MCKINNEY pulled into.
4. TFO Orick and Det. Harmon observed as two (2) males and one (1) female walked up to MCKINNEY's vehicle. MCKINNEY could be observed handing something to the individuals in exchange for money. TFO Orick believed the actions to be consistent with a narcotics transaction. TFO Orick and Det. Harmon requested marked CPD cruisers to arrest MCKINNEY. Officers from CPD CRT Zone 3 responded to the request, arrived at Westgate Park, and approached MCKINNEY's vehicle.
5. Upon approaching MCKINNEY's vehicle, CPD Officers observed MCKINNEY lean at the waist and discard an unknown item around the driver's side door area of the vehicle. CPD Officers made contact with MCKINNEY and he was arrested without further incident.
6. CPD Officers looked in the immediate area where MCKINNEY leaned and observed a baggie of unknown white substance, suspected of being Methamphetamine, in plain view on the arm rest of the driver's side door. The suspected narcotics was collected as evidence and placed into ATF

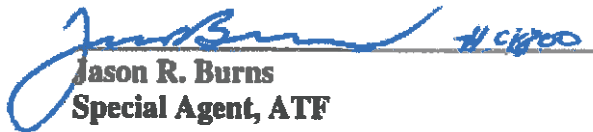
**PROBABLE CAUSE AFFIDAVIT**

**Nicholas Scott MCKINNEY**

custody. Officers observed several loose bills on the driver's side floorboard and photographed the loose bills.

7. CPD Officers recovered a black drawstring style bag directly behind the driver's side seat. The bag was removed and a Diamondback, Model DB9, 9 mm caliber pistol, bearing serial number: YE2499 was located, and the firearm was found to be loaded with a total of five (5) rounds of ammunition, with one (1) round in the chamber and four (4) in the magazine. The firearm was collected as evidence and placed into ATF custody. Officers also recovered several pieces of court and personal documents in the name of MCKINNEY from the bag. The documents were collected as evidence and placed into ATF custody.
8. A baggie containing tin foil and suspected heroin was located on the floor of the passenger side of the vehicle. The suspected heroin was collected as evidence and placed into ATF custody.
9. On this same date, TFO Orick and Det. Harmon interviewed MCKINNEY at CPD Headquarters building, room # 558. MCKINNEY was read a rights waiver and agreed to answer questions without an attorney present. This interview was audio and video recorded. During the interview, MCKINNEY denied the substance found in the baggy on the armrest of the driver's side door was Methamphetamine and stated that it had to be crack.
10. On or about August 9, 2019, your affiant examined the Diamondback Firearms, Model DB9, 9 mm caliber pistol, serial number YE2499 was not manufactured in the State of Ohio, and that the firearm would have moved/affected interstate and/or foreign commerce to arrive in the State of Ohio.
11. On or about October 24, 2019, BCI Laboratory tested the aforementioned suspected narcotics and determined that the baggie of white powder was 3.67 grams of Cocaine Base (Crack Cocaine), and the substance in foil was 4.71 grams of Heroin, both controlled substances.
12. These violations occurred in the city of Columbus, Franklin County, Ohio, in the Southern Judicial District of Ohio.
13. Based on this information, your affiant believes probable cause exists that MCKINNEY possessed, in and affecting interstate and foreign commerce, a loaded firearm, to wit: a loaded Diamondback Firearms, Model DB9, 9 mm caliber pistol, bearing serial number: YE2499, having previously been convicted of a crime punishable by imprisonment for a term exceeding one year, to wit: Burglary (F-2) and Robbery (F-3), Case No. 13-CR-1522, in Franklin County (Ohio) Court of Common Pleas, and did so knowingly, in violation of Title 18 U.S.C. §§ 922(g)(1) and 924(a)(2); and knowingly and intentionally possessed with intent to distribute a mixture or substance containing a detectable amount of Heroin, a Schedule I controlled substance, and a mixture or substance containing a detectable amount of Cocaine Base, commonly known as "Crack", a Schedule II controlled substance in violation of Title 21 U.S.C. §§ 841(a)(1) and (b)(1)(C).

**PROBABLE CAUSE AFFIDAVIT**  
**Nicholas Scott MCKINNEY**

  
Jason R. Burns  
Special Agent, ATF

Sworn to and subscribed before me this 13th day of July 2021 in Columbus, Ohio.

  
Elizabeth A. Preston Deavers  
U.S. Magistrate Judge

